



## Senate

General Assembly

**File No. 627**

February Session, 2016

Substitute Senate Bill No. 325

*Senate, April 14, 2016*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT BY THE UNIT OWNERS' ASSOCIATION OF A COMMON INTEREST COMMUNITY WHEN FORECLOSING A LIEN ON A UNIT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of subsection (m) of section 47-258 of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2016*):

4 (2) Not less than sixty days prior to commencing an action to  
5 foreclose a lien on a unit under this section, the association shall  
6 provide a written notice by first class mail to the holders of all security  
7 interests described in subdivision (2) of subsection (b) of this section. [,  
8 which] Such notice shall comply with the applicable provisions of the  
9 federal Fair Debt Collection Practices Act, 15 USC 1692 et seq., as from  
10 time to time amended, and any regulations adopted under said act,  
11 and shall set forth the following: (A) The amount of unpaid common  
12 expense assessments owed to the association as of the date of the

13 notice; (B) the amount of any attorney's fees and costs incurred by the  
14 association in the enforcement of its lien as of the date of the notice; (C)  
15 a statement of the association's intention to foreclose its lien if the  
16 amounts set forth in subparagraphs (A) and (B) of this subdivision are  
17 not paid to the association not later than sixty days after the date on  
18 which the notice is provided; (D) the association's contact information,  
19 including, but not limited to, (i) the name of the individual acting on  
20 behalf of the association with respect to the matter, and (ii) the  
21 association's mailing address, telephone number and electronic mail  
22 address, if any; and (E) instructions concerning the acceptable means  
23 of making payment on the amounts owing to the association as set  
24 forth in subparagraphs (A) and (B) of this subdivision. Any notice  
25 required to be given by the association under this subsection shall be  
26 effective when sent.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2016	47-258(m)(2)
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**Statement of Legislative Commissioners:**

In Section 1(2), "15 USC Section 1692" was changed to "15 USC 1692" for consistency of reference to the United States Code.

**JUD**      *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill amends statute concerning common interest community associations and does not result in a fiscal impact to the state or municipalities.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sSB 325*****AN ACT CONCERNING COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT BY THE UNIT OWNERS' ASSOCIATION OF A COMMON INTEREST COMMUNITY WHEN FORECLOSING A LIEN ON A UNIT.*****SUMMARY:**

Under the Common Interest Ownership Act (CIOA), a common interest community association seeking to collect unpaid common charges has a priority lien over previously recorded first or second security interests (e.g., mortgages) on the unit. Before bringing an action to foreclose the lien, an association must provide these interest holders with 60 days' notice setting forth specified information, such as the amount of unpaid charges. This bill requires the notice to also comply with the applicable provisions of the federal Fair Debt Collection Practices Act (FDCPA) and related regulations.

Under existing law and the bill, if an association fails to provide the notice as required, the association's costs and attorney's fees are not included as part of the priority lien (CGS § 47-258(m)(4)).

The FDCPA (15 U.S.C. § 1692 et seq.) regulates consumer debt collection practices by "debt collectors" (generally, collection agencies or others who regularly collect consumer debts on behalf of third parties). Some provisions also apply to original creditors. Among other things, the act prohibits debt collectors from using abusive, unfair, or deceptive practices. Generally, some courts have held that common interest community charges are debts subject to the FDCPA, but it is unclear how the act applies to an association's notice to a mortgage holder as set forth above.

EFFECTIVE DATE: October 1, 2016

**BACKGROUND*****Common Interest Ownership Act (CIOA)***

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut on and after January 1, 1984 (CGS § 47-200 et seq.). Certain CIOA provisions (including those amended by this bill) also apply to common interest communities created in Connecticut before January 1, 1984 but do not invalidate existing provisions of the communities' governing instruments (CGS §§ 47-214 & 216).

***Priority Lien under CIOA***

Under CIOA, an association's priority lien covers nine months of common expense assessments on a unit. The lien does not include any late fees, interest, or fines that the association assesses against the unit during the nine-month period. It is an "evergreen" lien (i.e., the association can invoke the lien more than once, if assessments continue to go unpaid).

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 41      Nay 4      (03/30/2016)